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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

BASARA

Atty. Ref.: 3687-21

Serial No. 10/057,958

Group: 3727

Filed: January 29, 2002

Examiner: Merek

For: BOX-LIKE CONTAINER WITH AN INTERPENETRATING
STRUCTURE AND PROCESS FOR THE REALIZATION
THEREOF

* * * * *

RECEIVED

March 19, 2003

Assistant Commissioner for Patents
Washington, DC 20231

MAR 21 2003

TECHNOLOGY CENTER R3700

Sir:

LETTER

In response to the requirement for restriction of March 3, 2003, applicant elects the product Claims 7-9 and specifically traverses the requirement for the following reasons.

The Examiner states as reasons for requiring restriction that the product could be made by a materially and different process, namely that the inner container could be made first in a mold and then the outer container molded around it. Applicant submits this is not the case at all. As set forth on page 1, lines 17-22 of the specification, containers made according to the prior art are generally constituted by an inner body and by an outer body obtained by casting or injection on or about the inner body. Always, according to that prior art, the known containers have the disadvantage that they are constituted by two containers located one inside the other and which two containers tend to detach from one another (see description, page 2, lines 14-20).

The product, i.e., the container according to the present invention, is a box-like hollow body having at least two hollow bodies intimately associated with one another. The first outer hollow body and the second inner hollow body interpenetrate with each other to form an integral structure provided with a continuous inner surface without gaps and an outer surface with zones or sectors constituted by portions of the inner hollow body emerging on the surface of the first outer hollow body (see description, page 3, line 6 and lines 15-23). More particularly, the first outer hollow body is provided with an aperture such as holes, windows, cuttings or the like and the second inner hollow body is realized in the inside of the first outer hollow body and provided with a continuous inner surface and an outer surface which has raised portions with shape, size and thickness corresponding to the shape, size and thickness of the apertures provided on the first outer body. The raised portions are realized within the apertures and peripherally exactly and intimately match the edges of the apertures (see description, page 4, lines 5-11).

From the foregoing and the drawings of this application, it will be impossible to make the product with a different process. Rather, the process according to Claim 10 is necessary to obtain the product with the above technical characteristics. In other words, to realize the product as claimed, the process must be carried out by realizing the outer body first and then the inner body on the inside of the outer body. No other process leads to such a product as claimed.

Moreover, distinctness requires the claimed inventions, i.e., the product and the method of making the product to be patentably distinct from one another. A review of,

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for example, independent Claims 7 and 10 directed to the product and method of making, respectively, demonstrate that the elements of each of the claims correspond with one another to such an extent as to call into question the conclusion reached by the Examiner, i.e., that the claims are patentable one over the other as is necessary for the showing of distinctness, which, in turn, is necessary for a proper requirement for restriction. Thus, the Examiner is respectfully requested to review the claims, particularly independent Claims 7 and 10, from the standpoint of whether those claims are indeed patentably distinct from one another when, in fact, most elements of the product claim are likewise set forth in the process claim.

It is also noted that the parent of the present application contained product and method claims. Those method claims were examined with the product claims throughout the course of that prosecution without any requirement for restriction, which suggests that the two allegedly patentably distinct inventions are not patentably distinct at all.

Reconsideration of the requirement for restriction is respectfully requested.

Respectfully submitted,

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